



General Assembly

Amendment

February Session, 2014

LCO No. 4074

SB0019604074SD0

Offered by:

SEN. CRISCO, 17th Dist.

REP. MEGNA, 97th Dist.

To: Senate Bill No. **196**

File No. 318

Cal. No. 234

"AN ACT CONCERNING GROUP-WIDE SUPERVISION FOR INTERNATIONALLY ACTIVE INSURANCE GROUPS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
4 section: (1) "Group-wide supervisor" means the chief insurance
5 regulatory official (A) authorized by such official's jurisdiction to
6 conduct and coordinate group-wide supervisory activities, and (B)
7 who has been determined or acknowledged to be the group-wide
8 supervisor of an internationally active insurance group pursuant to
9 subdivisions (2) and (3) of subsection (b) of this section; and (2)
10 "internationally active insurance group" means any insurance holding
11 company system that (A) includes an insurance company registered
12 pursuant to section 38a-135 of the general statutes, and (B) meets the
13 following criteria: (i) Premiums are written in at least three countries;
14 (ii) the percentage of gross premiums written without the United
15 States is at least ten per cent of the insurance holding company

16 system's total gross written premiums; and (iii) the total assets of the
17 insurance holding company system is at least fifty billion dollars or the
18 total gross written premiums of the insurance holding company
19 system is at least ten billion dollars.

20 (b) (1) The Insurance Commissioner may act as a group-wide
21 supervisor for any internationally active insurance group in
22 accordance with the provisions of this section.

23 (2) (A) The commissioner may determine, in cooperation with and
24 subject to the acknowledgment of the chief insurance regulatory
25 officials of the other jurisdictions where members of the internationally
26 active insurance group are domiciled, that the commissioner is the
27 appropriate group-wide supervisor for an internationally active
28 insurance group that conducts substantial insurance business
29 operations in this state or has subsidiaries that conduct substantial
30 insurance business operations in this state.

31 (B) The commissioner may acknowledge that the chief insurance
32 regulatory official of another jurisdiction is an appropriate group-wide
33 supervisor for an internationally active insurance group that (i) does
34 not conduct substantial insurance business operations in the United
35 States, (ii) conducts substantial insurance business operations in the
36 United States but not in this state, or (iii) conducts substantial
37 insurance business operations in the United States and in this state but
38 the commissioner has determined, pursuant to the factors set forth in
39 subdivision (3) of this subsection that the chief insurance regulatory
40 official of another jurisdiction is the appropriate group-wide
41 supervisor.

42 (3) The commissioner shall consider the following relevant factors
43 and the relative importance of each in making a determination or
44 acknowledgment under subdivision (2) of this subsection:

45 (A) The location of the home office of the internationally active
46 insurance group or the place of domicile of the ultimate controlling

47 person of the internationally active insurance group;

48 (B) The locations of executive offices of the internationally active
49 insurance group;

50 (C) The locations of origin of the insurance business of the
51 internationally active insurance group;

52 (D) The locations of the assets and liabilities of the internationally
53 active insurance group;

54 (E) The locations of the business operations and activities of the
55 internationally active insurance group; and

56 (F) Whether (i) the chief insurance regulatory official of another
57 jurisdiction is acting or seeking to act as the group-wide supervisor
58 under a regulatory system the commissioner determines to be
59 substantially equivalent to that provided under the laws of this state or
60 is otherwise sufficient in terms of group-wide supervision, enterprise
61 risk analysis and cooperation with other chief insurance regulatory
62 officials, and (ii) such chief insurance regulatory official acting or
63 seeking to act as the group-wide supervisor provides the Insurance
64 Department with reasonably reciprocal recognition and cooperation.

65 (c) (1) The commissioner may collect from any insurance company
66 registered pursuant to section 38a-135 of the general statutes any
67 information necessary for the department to determine whether the
68 commissioner may act as the group-wide supervisor of an
69 internationally active insurance group of which such company is a
70 member or to acknowledge that another chief insurance regulatory
71 official of another jurisdiction should act as the group-wide supervisor
72 of such insurance group.

73 (2) (A) Prior to issuing any determination or acknowledgment
74 under this section, the commissioner shall notify the member
75 insurance company registered pursuant to section 38a-135 of the
76 general statutes and the ultimate controlling person, of an

77 internationally active insurance group, and in the case of a
78 determination under subparagraph (A) of subdivision (2) of subsection
79 (b) of this section, the chief insurance regulatory officials of other
80 jurisdictions who participated in such determination, of such pending
81 determination or acknowledgment. The commissioner shall provide
82 the internationally active insurance group at least thirty calendar days
83 to submit any additional information pertinent to such determination
84 or acknowledgment that is requested by the commissioner or that such
85 insurance group chooses to submit.

86 (B) (i) Each notice of a pending determination of the commissioner
87 as the group-wide supervisor of such internationally active insurance
88 group shall include a listing of all the chief insurance regulatory
89 officials of other jurisdictions who participated in such determination
90 and whether each such regulatory official acknowledges that the
91 commissioner may act as the group-wide supervisor for such
92 internationally active insurance group.

93 (ii) If the internationally active insurance group or a chief insurance
94 regulatory official of another jurisdiction who participated in such
95 determination disagrees with such pending determination of the
96 commissioner as the group-wide supervisor of such internationally
97 active insurance group, such group or regulatory official may submit
98 an objection to the commissioner not later than thirty calendar days
99 after receipt of the notice of such pending determination. The
100 commissioner shall convene, with not less than twenty calendar days'
101 notice to the internationally active insurance group or regulatory
102 official, an investigatory hearing on such objection. Any of the parties
103 may submit additional documentation, information or testimony
104 related to such objection prior to such hearing and the provisions of
105 section 38a-137 of the general statutes, as amended by this act, shall
106 apply to any such documentation, information and testimony. The
107 commissioner shall conduct such hearing as a nonadversarial
108 confidential investigatory proceeding. If a chief insurance regulatory
109 official of another jurisdiction who participated in such pending

110 determination submitted an objection, the commissioner shall conduct
111 such hearing jointly with such regulatory official.

112 (iii) If, after such hearing, there is still disagreement as to the
113 determination of the commissioner as the group-wide supervisor of
114 such internationally active insurance group, the commissioner shall
115 serve as the group-wide supervisor until the matter is resolved in a
116 court of competent jurisdiction, if necessary.

117 (C) The commissioner shall notify the member insurance company
118 registered pursuant to section 38a-135 of the general statutes and the
119 ultimate controlling person, of an internationally active insurance
120 group, of the final determination or acknowledgment. The
121 commissioner shall post on the Insurance Department's Internet web
122 site a current list of internationally active insurance groups that the
123 commissioner has determined, and the chief insurance regulatory
124 officials of other jurisdictions have acknowledged, are subject to
125 group-wide supervision by the commissioner.

126 (d) The commissioner may conduct and coordinate the following
127 activities for an internationally active insurance group for which the
128 commissioner is determined to be the group-wide supervisor:

129 (1) Assess, pursuant to section 38a-135 of the general statutes, the
130 enterprise risks within the internationally active insurance group to
131 ensure that material financial conditions of and liquidity risks to the
132 members of such insurance group that are engaged in the business of
133 insurance are identified by management and that reasonable and
134 effective mitigation measures are in place;

135 (2) Request from insurance regulatory officials of the jurisdictions
136 where any member of the internationally active insurance group is
137 domiciled information necessary and appropriate to assess enterprise
138 risk, including, but not limited to, information about governance, risk
139 assessment and management, capital adequacy and material
140 intercompany transactions;

141 (3) Coordinate with insurance regulatory officials of the
142 jurisdictions where members of the internationally active insurance
143 group are domiciled to compel the development and implementation
144 of reasonable measures designed to ensure the internationally active
145 insurance group is able to timely recognize and mitigate material
146 enterprise risks to the members of such insurance group that are
147 engaged in the business of insurance;

148 (4) Communicate with insurance regulatory officials of the
149 jurisdictions where members of the internationally active insurance
150 group are domiciled and share relevant information, subject to the
151 confidentiality provisions of section 38a-137 of the general statutes, as
152 amended by this act, through a supervisory college, as set forth in
153 subsection (n) of section 38a-135 of the general statutes;

154 (5) Designate the member insurance company within the
155 internationally active insurance group that shall serve as the
156 commissioner's contact regarding the responsibilities of the
157 internationally active insurance group under the provisions of this
158 section;

159 (6) Enter into agreements with or obtain documentation from any
160 member insurance company registered pursuant to section 38a-135 of
161 the general statutes, any other member of the internationally active
162 insurance group and any chief insurance regulatory official of another
163 jurisdiction, to establish or clarify the commissioner's role as group-
164 wide supervisor and that may include provisions for resolving
165 disputes with other relevant supervisory authorities. No such
166 agreement or documentation shall serve as evidence that an insurance
167 company or person within an insurance company holding system that
168 is not incorporated in this state is doing business in this state or is
169 otherwise subject to the jurisdiction of this state; and

170 (7) Other activities deemed appropriate by the commissioner to
171 effectuate the purposes of this section and sections 38a-129 to 38a-140,
172 inclusive, of the general statutes, as amended by this act.

173 (e) If the commissioner acknowledges that a regulatory official of a
174 jurisdiction not accredited by NAIC is the group-wide supervisor of an
175 internationally active insurance group, the commissioner shall
176 reasonably cooperate through a supervisory college or otherwise with
177 group supervision undertaken by such group-wide supervisor,
178 provided such cooperation is in compliance with the laws of this state
179 and such group-wide supervisor recognizes and cooperates with the
180 commissioner's activities as a group-wide supervisor for other
181 internationally active insurance groups, where applicable. The
182 commissioner may refuse to cooperate if the commissioner determines
183 such recognition and cooperation are not reasonably reciprocated. The
184 commissioner may enter into agreements with or obtain
185 documentation from any member insurance company registered
186 pursuant to section 38a-135 of the general statutes, any affiliate of such
187 insurance company and any regulatory official of another jurisdiction
188 serving as the group-wide supervisor of an internationally active
189 insurance group, to establish or clarify such official's role as group-
190 wide supervisor.

191 (f) The commissioner may adopt regulations, in accordance with the
192 provisions of chapter 54 of the general statutes, to carry out the
193 provisions of this section.

194 (g) Each insurance company registered pursuant to section 38a-135
195 of the general statutes and subject to this section shall be liable for and
196 shall pay its share of the reasonable expenses of the commissioner's
197 administration of this section, including the engagement of the services
198 of attorneys, actuaries and other professionals and all reasonable travel
199 expenses.

200 Sec. 2. Subsection (a) of section 38a-137 of the general statutes is
201 repealed and the following is substituted in lieu thereof (*Effective*
202 *October 1, 2014*):

203 (a) All information, documents, materials and copies thereof
204 obtained by or disclosed to the commissioner or any other person in

205 the course of an examination or investigation made pursuant to section
206 38a-14a and all information reported, furnished or filed pursuant to
207 sections 38a-135 and 38a-136, as amended by this act, and section 1 of
208 this act shall (1) be confidential by law and privileged, (2) not be
209 subject to disclosure under section 1-210, (3) not be subject to
210 subpoena, and (4) not be subject to discovery or admissible in evidence
211 in any civil action. The commissioner shall not make such information,
212 documents, materials or copies public without the prior written
213 consent of the insurance company to which it pertains unless the
214 commissioner, after giving the insurance company and its affiliates
215 who would be affected thereby notice and opportunity to be heard,
216 determines that the interests of policyholders, securityholders or the
217 public will be served by the publication thereof, in which event the
218 commissioner may publish all or any part thereof in such manner as
219 the commissioner may deem appropriate. The commissioner may use
220 such information, documents, materials or copies in the furtherance of
221 any regulatory or legal action brought as part of the commissioner's
222 official duties.

223 Sec. 3. Subsection (b) of section 38a-129 of the general statutes is
224 repealed and the following is substituted in lieu thereof (*Effective*
225 *October 1, 2014*):

226 (b) As used in sections 38a-129 to 38a-140, inclusive, and section 1 of
227 this act, the following terms shall have the respective meanings
228 hereinafter set forth, unless the context shall otherwise require:

229 (1) "Affiliate" or "affiliated" has the same meaning as provided in
230 section 38a-1;

231 (2) "Commissioner" means the Insurance Commissioner and any
232 assistant to the Insurance Commissioner designated and authorized by
233 the commissioner while acting under such designation;

234 (3) "Control", "controlled by" or "under common control with" has
235 the same meaning as provided in section 38a-1. Control shall be

236 presumed to exist if any person, directly or indirectly, owns, controls,
237 holds with the power to vote, or holds proxies representing, ten per
238 cent or more of the voting securities of any other person. This
239 presumption may be rebutted by a showing that control does not exist
240 in fact. The commissioner may determine, after furnishing all persons
241 in interest notice and opportunity to be heard and making specific
242 findings of fact to support the determination, that control exists in fact,
243 notwithstanding the absence of a presumption to that effect;

244 (4) "Enterprise risk" means any activity, circumstance, event or
245 series of events involving one or more affiliates of an insurer that, if
246 not remedied promptly, is likely to have a material adverse effect upon
247 the financial condition or liquidity of the insurer or the insurer's
248 insurance holding company system as a whole, including, but not
249 limited to, any activity, circumstance, event or series of events that
250 would cause an insurer's risk-based capital to fall below minimum
251 threshold levels, as described in subsection (d) of section 38a-72 or, for
252 a health care center, in subdivision (2) of subsection (a) of section 38a-
253 193, or would cause the insurer to be in a hazardous financial
254 condition;

255 (5) "Insurance holding company system" means two or more
256 affiliated persons, one or more of which is an insurance company;

257 (6) "Insurance company" or "insurer" has the same meaning as
258 provided in section 38a-1, except that it does not include agencies,
259 authorities or instrumentalities of the United States, its possessions
260 and territories, the Commonwealth of Puerto Rico, the District of
261 Columbia, or a state or political subdivision of a state;

262 (7) "NAIC" means the National Association of Insurance
263 Commissioners;

264 (8) "Person" has the same meaning as provided in section 38a-1, or
265 any combination of persons so defined acting in concert;

266 (9) A "securityholder" of a specified person means one who owns

267 any security of such person, including common stock, preferred stock,
268 debt obligations and any other security convertible into or evidencing
269 the right to acquire any of the foregoing;

270 (10) "Subsidiary" has the same meaning as provided in section 38a-1;

271 (11) "Voting security" includes any security convertible into or
272 evidencing a right to acquire a voting security.

273 Sec. 4. Subsection (b) of section 38a-136 of the general statutes is
274 repealed and the following is substituted in lieu thereof (*Effective July*
275 *1, 2014*):

276 (b) (1) The following transactions involving a domestic insurance
277 company and any person in its holding company system, including
278 amendments to or modifications of affiliate agreements previously
279 filed pursuant to this section and that are subject to any materiality
280 standards specified in subparagraphs (A) to (G), inclusive, of this
281 subdivision, may not be entered into unless the insurance company
282 has notified the commissioner in writing of its intention to enter into
283 such transaction at least thirty days prior thereto, or such shorter
284 period as the commissioner may permit, and the commissioner has
285 approved or not disapproved it within such period. The written notice
286 for such amendments or modifications shall specify the reasons for the
287 change and the financial impact on the domestic insurance company.
288 Not later than thirty days after the termination of a previously filed
289 agreement, the domestic insurance company shall notify the
290 commissioner of such termination for the commissioner's
291 determination of what written notice or filing shall be required, if any:

292 (A) Sales, purchases, exchanges, loans or extensions of credit, or
293 investments, provided such transactions are equal to or exceed: (i)
294 With respect to nonlife insurance companies, the lesser of three per
295 cent of the insurance company's admitted assets or twenty-five per
296 cent of surplus; or (ii) with respect to life insurance companies, three
297 per cent of the insurance company's admitted assets; each as of the

298 thirty-first day of December next preceding;

299 (B) Loans or extensions of credit to any person who is not an
300 affiliate, where the insurance company makes such loans or extensions
301 of credit with the agreement or understanding that the proceeds of
302 such transactions, in whole or in substantial part, are to be used to
303 make loans or extensions of credit to, to purchase assets of, or to make
304 investments in, any affiliate of the insurance company making such
305 loans or extensions of credit, provided such transactions are equal to or
306 exceed: (i) With respect to nonlife insurance companies, the lesser of
307 three per cent of the insurance company's admitted assets or twenty-
308 five per cent of surplus; or (ii) with respect to life insurance companies,
309 three per cent of the insurance company's admitted assets; each as of
310 the thirty-first day of December next preceding;

311 (C) Reinsurance agreements or modifications thereto, including (i)
312 all reinsurance pooling agreements, and (ii) agreements in which the
313 reinsurance premium or a change in the insurance company's
314 liabilities, or the projected reinsurance premium or a projected change
315 in the insurance company's liabilities in any of the next three years,
316 equals or exceeds five per cent of the insurance company's surplus, as
317 of the thirty-first day of December next preceding, including those
318 agreements that may require as consideration the transfer of assets
319 from an insurance company to a nonaffiliate, if an agreement or
320 understanding exists between the insurance company and nonaffiliate
321 that any portion of such assets will be transferred to one or more
322 affiliates of the insurance company;

323 (D) All management agreements, service contracts, tax allocation
324 agreements and cost-sharing arrangements;

325 (E) Guarantees by a domestic insurance company, except that a
326 guarantee that is (i) quantifiable as to amount, and (ii) does not exceed
327 the lesser of one-half of one per cent of the insurance company's
328 admitted assets or ten per cent of surplus with regard to policyholders,
329 as of the thirty-first day of December next preceding, shall not be

330 subject to the notice requirement of this subsection;

331 (F) Direct or indirect acquisitions or investments in a person that
 332 controls the domestic insurance company or in an affiliate of the
 333 insurance company in an amount that, together with the insurance
 334 company's present holdings in such investments, exceeds two and one-
 335 half per cent of the insurance company's surplus with regard to
 336 policyholders. This subsection shall not apply to direct or indirect
 337 acquisitions of or investments in (i) subsidiaries acquired pursuant to
 338 section 38a-102d or authorized pursuant to any section of this title
 339 other than sections 38a-129 to 38a-140, inclusive, as amended by this
 340 act, or (ii) nonsubsidiary affiliates that are subject to the provisions of
 341 sections 38a-129 to 38a-140, inclusive, as amended by this act; and

342 (G) Any material transactions, specified by regulation, that the
 343 commissioner determines may adversely affect the interests of the
 344 insurance company's policyholders.

345 (2) Nothing contained in this section shall be deemed to authorize or
 346 permit any transactions that, in the case of an insurance company not a
 347 member of the same insurance holding company system, would be
 348 otherwise contrary to law."

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|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2014</i> | New section |
| Sec. 2 | <i>October 1, 2014</i> | 38a-137(a) |
| Sec. 3 | <i>October 1, 2014</i> | 38a-129(b) |
| Sec. 4 | <i>July 1, 2014</i> | 38a-136(b) |